

# Estuary Management and Plan Implementation Program

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## Problem Definition

Puget Sound is the nation's second largest estuary. Its shorelines stretch for more than 2,000 miles and comprise 16,000 square miles of land and water in the basin. More than 10,000 rivers and streams flow into its waters. As an ecosystem, Puget Sound includes a diverse collection of habitats. The local marine environment is home to more than 220 species of fish; 26 species of marine mammals; 100 species of seabirds, shore birds and waterfowl; and numerous invertebrate and plant species.

Managing and protecting Puget Sound, along with the rapid proliferation of human activities, is a challenge. What makes the task most daunting is the sheer number of government bodies that can potentially affect Puget Sound and its resources. There are 108 cities, 12 counties, 12 conservation districts, 12 local health jurisdictions, 28 local port districts, 3 regional governmental bodies, 22 tribes, 14 state agencies and 9 federal agencies involved in the process. In addition, there are hundreds of special purpose districts for water, sewer, groundwater

protection, drainage and irrigation.

All of these government bodies have their own set of responsibilities. Each has a unique constituency and ability to raise money and make policy. As a result, protecting Puget Sound can often take a back seat to other priorities.

The Washington Legislature acknowledged this in the Puget Sound Water Quality Protection Act of 1996.

*The large number of governmental entities that now have regulatory programs affecting the water quality of Puget Sound have diverse interests and limited jurisdictions that cannot adequately address the cumulative, wide-ranging impacts that contribute to the degradation of Puget Sound...Coordination of the regulatory programs, at the state and local level, is best accomplished through the development of interagency mechanisms that allow these entities to transcend their diverse interests and limited jurisdictions. (RCW 90.71.005(c)). ~ See Appendix A*

## What does "shall" mean?

The Action Team has determined that the actions in this plan are needed to protect and restore Puget Sound. Consistent with the importance of these actions, this plan says that appropriate implementers "shall" perform the actions. However, implementation of many of these actions is a long-term process. The Action Team's work plans will identify the actions that need to be taken each biennium to implement this management plan. Implementation of actions in the work plans is subject to the availability of funds and public input into the decision-making processes of implementing entities. When an action is included in a biennial work plan, the Action Team expects that it will be implemented in accordance with the relevant provisions of the Puget Sound management plan, in accordance with Chapter 90.71 RCW.

The *Puget Sound Management Plan* provides a comprehensive, long-term approach to protecting Puget Sound by improving coordination among government groups. It lays the foundation for managing Puget Sound in a cost-effective manner.

### Institutional Framework

The current structure for protecting Puget Sound consists of the Puget Sound Water Quality Action Team and the Puget Sound Council. A governor-appointed chair leads and supports both groups. The Action Team and Council were created by the state legislature to coordinate and integrate the diverse efforts among all levels of government to protect Puget Sound and its resources.

The Action Team, representing state and federal agencies and tribal and local governments, is responsible for amending the management plan. The management plan represents a comprehensive, long-term, strategic effort for protecting the Sound. Additionally, the Action Team adopts work plans that define specific actions government entities will take to protect and restore Puget Sound each state biennium. The work plans are short-term steps towards implementing the long-range management plan.

The Council represents certain groups that have an interest in Puget Sound, including shellfish growers, agriculture, business, cities, counties, tribal governments, the environmental community and the legislature. The Council advises the Action Team on developing the management plan, coordinates efforts to implement the management plan and the work plan, and tracks plan implementation.

The Action Team and Council base their management plan and work plan on results of selected environmental indicators that monitor and assess long-term effectiveness of efforts to protect Puget Sound. This process of assessment, called “adaptive management,” is used to both focus the next biennium’s work plan and to consider amendments to the management plan. This approach helps ensure optimum success in protecting the Sound, given the limited resources available for these efforts. The figure on Page 12 illustrates this process.

Appropriate programs in this management plan include evaluation elements identifying program measures (implementation monitoring) and ways to evaluate program effectiveness. Future amendments to the Monitoring or Estuary Management programs may be made to improve coordination of implementation and effective monitoring. Similarly,

future amendments to the Monitoring or Research programs may be needed to develop and articulate an approach to validation monitoring.

The management plan also serves as a Comprehensive Conservation and Management Plan under the federal National Estuary Program (NEP). Puget Sound is recognized as an estuary of national significance under the NEP (Section 320 of the federal Clean Water Act). Federal endorsement of the management plan provides access to federal funding and cooperation and provides policy that federal programs be consistent with the management plan.

Adopting a comprehensive management plan is only the first step toward protecting Puget Sound. As noted earlier, many competing priorities and divergent interests can make implementation of the management plan and work plan a challenge. The Action Team and Council work together to coordinate and focus government effort to ensure limited resources are used most effectively.

### Program Goal

To protect and restore Puget Sound through effective coordination among governments and private interests, and through use of an adaptive management approach.

### Program Strategy

The strategy for achieving this goal is to:

- a. maintain, evaluate and update the *Puget Sound Water Quality Management Plan* as needed;
- b. develop and implement Puget Sound work plans each biennium;
- c. require accountability by implementing agencies.
- d. evaluate the effectiveness of the biennial work plans in meeting the goals of the management plan;
- e. obtain adequate funding to implement the management plan and work plans;
- f. provide technical assistance for implementers;
- g. provide strong enforcement of all relevant environmental laws; and
- h. ensure that federal activities are consistent with the intentions of the management plan.

## EM-1. Institutional Structure

The Puget Sound Water Quality Action Team and Council are established in state law to coordinate programs for protecting and restoring Puget Sound (Chapter 90.71 RCW). Action Team members include the heads of 10 state agencies; a city, a county and a federally recognized tribal government representative, each appointed by the governor; and ex-officio non-voting representatives of three federal agencies. The Puget Sound Council comprises governor-appointed representatives of business, the environmental community, agriculture, the shellfish industry, counties, cities and tribal governments, and four members of the state legislature. A governor-appointed chair guides the work of the Action Team and Council and leads a support staff in the governor's office.

The Puget Sound Action Team is responsible for:

- a. periodically amending the *Puget Sound Water Quality Management Plan*;
- b. developing a biennial work plan and budget;
- c. coordinating implementation among agencies; and
- d. ensuring implementation and coordination of the monitoring and research programs.

The Puget Sound Council is responsible for:

- a. recommending to the Action Team projects and activities for inclusion in the biennial work plan;
- b. recommending to the Action Team proposed amendments to the management plan; and
- c. reviewing progress on implementation of the biennial work plans.

## EM-2. Planning for Puget Sound

The *Puget Sound Management Plan* provides the long-range vision for protecting and enhancing Puget Sound. The Action Team, with advice from the Council, periodically amends the management plan to address new threats to the Sound and to take advantage of new opportunities. Each biennium, the Council and Action Team prepare a two-year work plan for consideration by the governor and legislature. The work plan prescribes federal, state, tribal and local actions to implement the management plan. Local governments are to implement local elements of the work plans subject to the availability of appropriated funds or other funding sources (Chapter 90.71 RCW).

Programs in the *Puget Sound Management Plan* are designed according to the following principles:

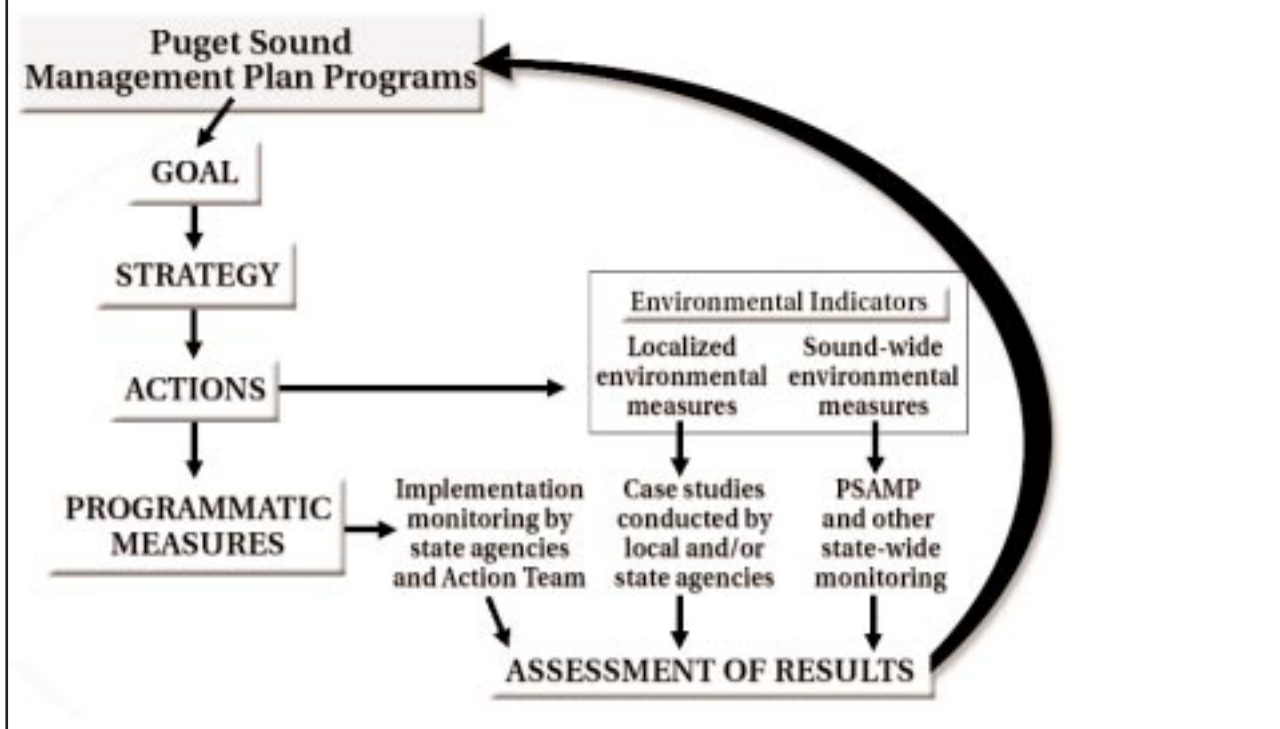
- a. Rely on existing government programs where possible. Call for program enhancements or establishment of new programs when necessary.
- b. Encourage governments to plan at the watershed level.
- c. Call on local governments to implement the management plan through their countywide policies, comprehensive land-use plans, capital facilities plans and development regulations. Provide technical support to aid in this effort.
- d. Encourage education and involvement of the public in government decisions and as personal stewards of Puget Sound resources.
- e. Design processes to continually improve the scientific basis for plan programs.
- f. Improve the management plan over time by monitoring and evaluating the success of plan programs.
- g. Call on implementers of the management plan to monitor, evaluate and improve their individual programs over time.

## EM-3. Adaptive Management

The Action Team, in consultation with the Council, adapts and improves plans and programs to incorporate changes in scientific knowledge, environmental conditions and program experience and to capitalize on new opportunities. The Council is specifically charged by the legislature to periodically review progress on implementing the two-year work plans. Each biennium, the Action Team submits a report to the legislature describing and evaluating the successes and shortcomings of the current work plan (Chapter 90.71 RCW). Information needed to monitor and adapt plans and programs is obtained from several sources including: the Puget Sound Ambient Monitoring Program (PSAMP); tracking of environmental and program performance measures; and case studies on specific performance issues.

PSAMP, described in the Monitoring Program section of this plan, collects information about trends in the ambient environment. This interagency program has been operating since 1989. *Puget Sound Update* reports are produced every biennium to summarize current findings. The PSAMP and other complementary monitoring

Figure 3. Relationship of environmental and program performance measures to programs in the management plan.



efforts provide information about environmental problems, patterns and trends, allowing evaluation of the effectiveness of management strategies and actions.

The Action Team adopts and tracks environmental and program performance measures to “take the pulse” of key environmental results. This is consistent with the Action Team’s legislative mandate (RCW 90.71.060). Environmental performance measures include cumulative measures that reflect the effects of several programs, as well as more narrow measures that are tied directly to the results of individual programs. Program performance measures track progress on certain critical actions within a program. Figure 3 above shows how environmental and program performance measures relate to individual programs in the management plan. The Action Team produces Puget Sound’s Health reports every biennium to provide information on the status and trends of environmental concerns in Puget Sound.

Starting with the *2000 Puget Sound Management Plan*, an evaluation element is included in each program. These evaluation elements specify performance measures and target levels, where appropriate. However, the program and environmental measures adopted by the Action Team are not sufficient to diagnose problems. If a

measure shows that environmental or program results are not being achieved, the Action Team will determine whether to initiate any of the following actions:

- Additional investigation of the causes of program shortcomings;
- Improvements in program implementation through the biennial work plans; and/or
- Amendment of the management plan.

## EM-4. Increased Funding

Implementing the *Puget Sound Management Plan* will require a significant investment by federal, state, tribal and local governments. However, investing money upfront to prevent further pollution and degradation of the Sound will save money in the long run by avoiding costly pollution cleanup. Action Team agencies and other implementers of the management plan shall pursue funding for implementation of the management plan and related activities from all available federal, state and local government and private sources.

The Environmental Protection Agency (EPA) shall encourage federal programs, including related tribal government programs, to fund implementation of the management plan and work plans.



Federal and state agencies that provide water quality funding to local and tribal governments are encouraged to participate in a forum, such as the Infrastructure Assistance Coordinating Council (IACC), that allows them to coordinate their efforts and target assistance to ensure maximum benefit from their efforts. State agencies shall implement the management plan through the biennial work plans and budget requests. Local and tribal governments shall use their authorities to generate funding needed to implement the management plan. Non-governmental organizations, associations, businesses and other private parties are encouraged to participate in funding efforts to protect Puget Sound.

### EM-5. Puget Sound Grants Program

The Action Team shall pursue new funding sources through legislation or federal cooperative agreements. These revenues should be used to implement the *Puget Sound Management Plan* and other water quality activities. Action Team support staff would administer a grant funding program similar in concept to the Public Involvement and Education Fund (PIE Fund) to assist local and tribal governments and other entities in implementing their responsibilities under the management plan.

The Action Team shall work with the B.C./States Task Force to encourage a higher and uniform marine fuels tax in all U.S. and Canadian west coast ports.

**Target Date** for EM-5: Action Team efforts to develop legislation or cooperative agreements to establish a funding source for these grants will be ongoing.

### EM-6. Federal, State and Local Enforcement

Federal, state, local and tribal entities should work to achieve compliance with the *Puget Sound Management Plan* through education for voluntary action and through enforcement, where necessary, of relevant policies, laws and regulations for which they have jurisdiction.

The EPA shall initiate federal enforcement actions when necessary to ensure effective implementation of the management plan and protection of Puget Sound. If situations arise where another federal agency has enforcement authority, the EPA shall request appropriate action by that agency.

State enforcement agencies shall initiate state enforcement actions when necessary to ensure effective implementation of the management plan and protection of Puget Sound.

Local governments are encouraged to strengthen the enforcement and wording of existing laws, and develop and implement new ordinances that protect the water quality and habitat functions of wetlands and control specific sources of nonpoint pollution, including stormwater. The state will provide matching funds to counties, cities or local health agencies to assist in the development or revision of programs and to augment investigations and prosecutions under those laws.

Wetlands protection may be implemented through comprehensive plans, shoreline master programs and critical areas ordinances. Enforcement of measures to reduce nonpoint source pollution that are eligible for state grants include on-site sewage systems, pumpout facilities at marinas, farm practices and other sources identified through local watershed plans. Local governments or health agencies are encouraged to use existing legal authority (including general police power, state health authority, or other legal tools) to adopt such ordinances or regulations as may be necessary to address nonpoint pollution. Development and enforcement of stormwater regulatory programs are also eligible for funding, as are those activities related to local government compliance with the 1990 Growth Management Act.

Funds will be made available for development and revision of ordinances, as well as for investigation and prosecution of violations. Efficient and innovative approaches to enforcement, such as civil penalties, dedicated fines and community service, shall be encouraged. Funds made available for enforcement through the Centennial Clean Water Fund (CCWF) will be used for start-up costs or seed monies to develop enforcement programs and not for ongoing staff needs.

### EM-7. Attorney General Support

The Attorney General shall make every effort to support the *Puget Sound Management Plan* by providing enough attorneys to assist in agency rule-making, permit writing and enforcement. Legal expertise shall be provided at all stages of environmental protection activities when a request is made to the Attorney General's office by one of the implementing agencies. Agency personnel shall report difficulties they might have in securing legal sup-

port to the Action Team after they have first reported this problem to their management and to the Attorney General's office.

**Target Date** for EM-7: Ongoing.

### EM-8. Memoranda of Understanding with the Department of Defense

The Region 10 office of the EPA, as a representative of the Puget Sound Action Team, shall work with Department of Defense facilities in Puget Sound to evaluate the need for specific Memoranda of Agreement that address consistency with the Puget Sound Management Plan.

The EPA shall also use other regulatory opportunities to achieve the same goals with these facilities. These opportunities include: ensuring that multimedia inspections cover consistency with the management plan as the Comprehensive Conservation and Management Plan (CCMP) for Puget Sound, and evaluating projects that support the goals of the CCMP as potential candidates for designation as supplementary environmental projects during enforcement settlements.

**Target Date** for EM-8: Ongoing

### EM-9. Review of Plan by Federal Agencies

Federal activities that directly or indirectly affect the quality of Puget Sound shall further the goals of the management plan. Each federal agency is requested to take action on any management plan element in which it is named. All federal agencies are requested to review the management plan on a continuing basis to determine whether any of their projects or programs potentially assist or conflict with the goals of the management plan. Federal agencies are requested to submit specific actions to the Action Team for inclusion in biennial work plans.

**Target Date** for EM-9: Agencies to comply on an ongoing basis.

### EM-10. Federal Consistency Review Process

The Puget Sound Action Team shall implement a process to review federal activities for consistency with the *Puget Sound Management Plan*.

The purpose of the review process is to ensure

that federal activities are consistent with and will further the purposes and objectives of the Puget Sound CCMP. This process is called for in Section 320(b)(7) of the Clean Water Act. The review process shall consider all federal activities that may significantly affect the goals of the management plan, including but not limited to federal financial assistance and development projects. The review process shall complement and not duplicate existing state-federal review processes. The Department of Ecology administers federal consistency review processes for both the state's Water Quality Management Plan to Control Nonpoint Source Pollution, called for in Section 319 of the Clean Water Act, and Section 6217 of the Coastal Zone Act Reauthorization Amendments of 1990 (CZARA). Ecology shall conduct these reviews for projects located in Puget Sound in cooperation and consultation with the Action Team.

For federal activities that do not come under the purview of the Nonpoint Plan or Section 6217 of the CZARA—e.g., federally issued discharge permits—the EPA shall work with the Action Team to ensure that federal consistency is being upheld.

### EM-11. Implementation of Section 6217 of the Federal Coastal Zone Act Reauthorization Amendments (CZARA)

The state's strategy for achieving consistency with Section 6217 of CZARA is for Ecology to develop a statewide "Water Quality Management Plan to Control Nonpoint Source Pollution." Ecology's plan shall be consistent with the goals, objectives and strategies of the *Puget Sound Management Plan*. The management plan will also supplement the statewide plan with guidance specific to the Puget Sound basin. Using federal Clean Water Act Section 319 and Coastal Zone Management Act funds, the EPA and the National Oceanic and Atmospheric Administration shall consider funding demonstration projects in priority watersheds for each category of management measures.